MYSORE ACT No. XII OF 1938.*

THE MYSORE HINDU WIDOWS RE-MARRIAGE ACT, 1938.

(Received the assent of His Highness the Maharaja on the seventh day of July 1938.)

An Act to remove all legal obstacles to the marriage of Hindu Widows in the [1] [State of Mysore except Bellary District].

Whereas the removal of all legal obstacles to the marriage of Hindu Widows in the State will tend to the promotion of public welfare and whereas it is just to hold offsprings of such marriages as legitimate; it is hereby enacted as follows:—

Short title, extent and commencement.

1. (*i*) The Act may be called "The Mysore Hindu Widows Re-marriage Act, 1938."

(*ii*) It shall extend to the [1][whole of the State of Mysore except Bellary District].

(*iii*) It shall come into operation at the expiration of one month from the date of its publication in the official Gazette.

Marriage of Hindu Widows legalised.

2. Notwithstanding any custom and any interpretation of Hindu Law to the contrary, no marriage contracted between Hindus shall be invalid, and no issue of such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, provided that the parties must not be related to each other in any degree of consanguinity or affinity which would under Hindu Law render a marriage illegal.

Ceremonies constituting valid marriage to have effect on Widows Re-marriage.

3. Whatever words spoken, ceremonies performed or engagements made on the marriage of a Hindu female who has not been previously married are sufficient to constitute a valid marriage, shall have the same effect if spoken, performed or made on the marriage of a Hindu widow; and no marriage shall be declared invalid on the

1. See the Mysore Adaptation of Laws Order, 1958.

ground that such words, ceremonies or engagements are inapplicable to the case of a widow.

Consent to re-marriage of minor widow.

4. If the widow re-marrying is a minor whose marriage has not been consummated, she shall not re-marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or failing all these, of her elder brother or failing also brothers, of her next male relative.

Punishment for abetting marriage made contrary to this section.

All persons knowingly abetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year or to fine not exceeding five hundred rupees or to both.

Effect of such marriage.

Proviso.

And all marriages made contrary to the provisions of this section may be declared void by a Court of law :

Provided that, in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated.

Consent to re-marriage of major widow.

In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.

Savings of rights of widow marrying.

5. Except as hereinafter provided, a widow shall not by reason of her re-marriage forfeit any property or any right to which she would otherwise be entitled ; and every widow who has re-married shall have the same rights of inheritance as she would have had had such marriage been her first marriage.

Rights of widow in deceased husband's property to cease on her re-marriage.

6. All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property with no power of alienating the same, shall upon her re-marriage cease and determine as if she had then died ; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.

Guardian of children of deceased husband on the re-marriage of his widow.

7. On the re-marriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband the guardian of his children, the father or paternal grandfather or the mother or paternal grandmother, of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in civil cases in the place where the deceased husband was domiciled at the time of his death for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who when appointed shall be entitled to have the care and custody of the said children, or of any of them during their minority, in the place of their mother ; and in making such appointment the Court shall be guided, so far as may be, by the laws and the rules in force touching the guardianship of children who have neither father nor mother :

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children whilst minors.